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CRIMINAL LAW—STATUTE OF LIMITATIONS—TIME OF COMMISSION OF OFFENSE JURISDICTIONAL FACT.—The appellant unlawfully transported intoxicating liquors into a prohibition district. The crime had been made a misdemeanor by the code which provided that an indictment for any misdemeanor must be found within one year after its commission. More than a year later this information was filed and the accused, upon trial, pleaded not guilty, but was convicted. An appeal was taken on the ground that the information was insufficient to state a public offense because barred by the statute of limitations. *Held*, judgment reversed. *State v. Steensland* (Idaho), 195 Pac. 1080.

Upon this point there is considerable conflict. The theory of the United States Supreme Court and some of the State courts is that time is not of the essence, and the statute of limitations is a defense which the accused may plead or waive upon trial, and cannot be set up by demurrer. *United States v. Cook*, 17 Wall. 168. Therefore no time need be alleged in the pleadings, but the defendant may take advantage of the statute under the general issue of not guilty. *State v. Unsworth*, 85 N. J. L. 237, 88 Atl. 1097. And the statute cannot be taken advantage of by demurrer. *People v. Bailey*, 171 N. Y. Supp. 394. These cases are based on the wording of the statute. Thus if the enacting clause makes the right to the defense exceptional, and not complete, the exception must be negated in the indictment charging the offense, but if the exception is in a subsequent clause or section it is the duty of the defendant to set up the defense. *United States v. Cook, supra*; *Packer v. People*, 26 Col. 306, 57 Pac. 1087. But even where the exception is in a subsequent clause, if the counsel admits that the case is not in the exception a demurrer to the indictment will be sustained if the indictment shows on its face that the crime is barred. *United States v. Owen*, 32 Fed. 534.

Many of the States, however, hold that an indictment showing on its face that the statute of limitations has run will not support a judgment of conviction. Thus, in *People v. Miller*, 12 Cal. 291, it was held that time is a material fact and it must be alleged that the crime was committed on a certain day within the time of limitation. Any exception to the statute must be stated in the pleadings. An indictment is demurrable if it does not affirmatively appear that the act was not done so early as to be barred. *People v. Gregory*, 30 Mich. 371. A justice of the peace, who commits a prisoner on a complaint showing that the offense is barred by the statute, is liable in a civil action. The time within which the offense is committed is a jurisdictional fact. *Vaughn v. Congdon*, 56 Vt. 111, 48 Am. Rep. 758. And where relator was arrested on a complaint after the statute had run he was entitled to discharge on habeas corpus. *Ex parte Hoard*, 63 Tex. Cr. R. 519, 140 S. W. 449.

EMINENT DOMAIN—PUBLIC USE—CONDEMNATION OF PROPERTY ALREADY DEVOTED TO PUBLIC USE.—Plaintiff was a public service corporation engaged in supplying electricity to the public. In order to meet the demands of the public it was compelled to buy electricity from others. For the purpose of constructing a hydro-electric plant and generating